



November 4, 2019

Aron Borok, Water Quality Standards Specialist
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

Sent via e-mail to mercury2019@deq.state.or.us

Re: Comments regarding the Notice of Proposed Rulemaking, Willamette Basin Mercury Multiple Discharger Variance and Amendments to Variance Authorization Rule

Dear Mr. Borok:

The Oregon Farm Bureau (OFB), Oregon Forest and Industries Council (OFIC), and Oregon Association of Nurseries (OAN) submit this letter jointly to convey our comments pertaining to the Notice of Proposed Rulemaking prepared by the Oregon Department of Environmental Quality (ODEQ). Our comments are based on our review of this document and our participation as members of the Advisory Committee for the related Willamette Basin Mercury TMDL.

By way of background, OFB is a nonprofit organization that has been a voice for Oregon's family farmers and ranchers for 100 years. The OFB has nearly 7,000 members statewide. Over 3,000 of those members are located within the Willamette Valley. In the Willamette Valley, OFB members raise nearly 225 types of crops and livestock. OFIC is a nonprofit organization that represents over 50 Oregon forestland owners and forest products manufacturers who manage over 5 million acres of Oregon forestlands and employ nearly 60,000 Oregonians. The OAN is a nonprofit organization that provides a voice for over 700 nursery stock producers, retailers, landscapers, and other companies across the state.

We comment on three parts of the Notice of Proposed Rulemaking:

1. Proposed Section 6(a)(A) of Oregon Administrative Rule (OAR) 340-041-0345 states "The fishing use and associated human health criterion for mercury cannot be attained in the waters of the Willamette Basin in the next 20 years because human-caused sources of mercury from global mercury emissions and erosion of native soils are deposited or transported to Willamette Basin waters." This sentence indicates that emissions increase mercury in the air and erosion increases mercury in the Willamette River and its tributaries. Because direct runoff of atmospherically-derived mercury is not mentioned and because the sentence does not explain that even background levels of erosion lead to mercury loading above that required by the TMDL, readers of this sentence could easily reach the incorrect understanding that limiting erosion is the only thing that is needed to attain the fishing use and the associated human health criterion. In ODEQ's recent Willamette

Mercury TMDL, ODEQ acknowledged that mercury exceedances are caused by a large number of sources, many of which are outside the control of any actors in Oregon. As such, we urge ODEQ not to name erosion as the sole process that contributes mercury to the river. The sentence could easily retain its intended meaning if it ended with "... in the next 20 years because of local deposition of atmospheric mercury derived from global sources." Please make this change.


2. Proposed Section 6(f)(B) of OAR 340-041-0345 requires identification and inspection of dental offices. This specific and prescriptive language is already captured in Requirement D (i.e., Proposed Section 6(f)(D) of OAR 340-041-0345), which describes other potential sources at locations like healthcare facilities. We object to the naming of such a specific industry as a target of mercury minimization plans in the OARs. Please remove proposed Section 6(f)(B).
3. Attachment 1, Section 3.2.3 describes state activities to reduce mercury loads. It implies that, even if point sources do nothing to decrease their mercury loading to the river, other activities will decrease mercury loading. These other activities are almost entirely related to nonpoint source programs. This implies that the vast majority of reductions in mercury loading should relate to nonpoint sources. This is unnecessary for this document, and again implies that nonpoint sources are the primary contributor to exceedances without providing a complete picture of the cause of exceedances and the challenges in addressing mercury that originates from sources outside our control. We object to the inclusion of this list of activities, especially without a complete discussion of the causes of exceedances and the complex mechanics of removing mercury loading from nonpoint sources. Please remove Section 3.2.3 from Attachment 1.

We thank you for your work on this multiple discharger variance, and we look forward to continuing to work with you and your colleagues on issues related to the Willamette River Basin in the coming months.

Sincerely,



Dave Dillon
Executive Director
Oregon Farm Bureau



Kristina McNitt
Executive Director
Oregon Forest & Industries Council



Jeff Stone
Executive Director
Oregon Association of Nurseries